

1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 DISTRICT OF HAWAII
3 JOHN A. MOFFETT,) CIVIL NO. 03-00130MLR
4 Plaintiff,) Honolulu, Hawaii
5 vs.) September 21, 2005
6 SMF SYSTEMS CORPORATION,) 9:15 a.m.
7 et al.,) FURTHER JURY TRIAL
8 Defendants.) VOLUME 3

9 TRANSCRIPT OF JURY TRIAL
10 BEFORE THE HONORABLE MANUEL L. REAL,
11 UNITED STATES DISTRICT JUDGE

12 APPEARANCES:

13 For the Plaintiff: BARBARA A. PETRUS, Esq.
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20 For the Defendants: LYNNE T. T. TOYOFUKU, Esq.
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Official Court Reporter: Cynthia Tando Fazio, RMR, CRR
United States District Court
P.O. Box 50131
Honolulu, Hawaii 96850

Proceedings recorded by machine shorthand, transcript produced
with computer-aided transcription (CAT)

1 SMF per employee, based upon their individual circumstances,
2 how much money should be refunded by SMF to those 401(k) plans.

3 BY MS. FARM:

4 Q And with respect to your individual circumstance, what was
5 the amount of money?

6 A Mr. Huey indicated it would be \$150.

7 Q And did you receive the \$150?

8 A No, I did not.

9 Q Have you ever received the \$150?

10 A No, I did not. Mr. Huey indicated that the deposit should
11 have been made on February 11th, 2001, and my -- the statements
12 I received from the 401(k) plan indicated no such deposit.

13 Q Could you please look at Exhibit 60? That's six zero.

14 A Yes.

15 Q Could you tell us what that letter is -- I'm sorry, what
16 that document is.

17 A This is a letter from Mr. Huey, senior investigator, U.S.
18 Department of Labor, where he identifies to me that he had
19 advised SMF that my share of the lost interest was \$150, and
20 that this payment was made to participant's account on February
21 11th, 2002.

22 MS. FARM: I would move Exhibit 60 into evidence, Your
23 Honor.

24 THE COURT: Any objection?


25 MS. TOYOFUKU: No objection, and my -- I guess I

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COURT REPORTER'S CERTIFICATE

I, CYNTHIA TANDO FAZIO, Official Court Reporter,
United States District Court, District of Hawaii, Honolulu,
Hawaii, do hereby certify that the foregoing pages numbered 1
through 116 is a correct transcript of the proceedings had in
connection with the above-entitled matter.

DATED at Honolulu, Hawaii, October 25, 2005.



CYNTHIA TANDO FAZIO, RPR, CRR